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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

WASHINGTON TOXICS COALITION;) Civ. No. C04-1998C
NORTHWEST COALITION FOR)
ALTERNATIVES TO PESTICIDES;)
NATIONAL WILDLIFE FEDERATION;)
DEFENDERS OF WILDLIFE; NATURAL) DECLARATION OF GLEN SPAIN
RESOURCES DEFENSE COUNCIL;)
CENTER FOR BIOLOGICAL DIVERSITY;)
PACIFIC COAST FEDERATION OF)
FISHERMEN'S ASSOCIATIONS;)
INSTITUTE FOR FISHERIES RESOURCES;)
and HELPING OUR PENINSULA'S)
ENVIRONMENT,)

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF)
INTERIOR; UNITED STATES)
DEPARTMENT OF FISH AND WILDLIFE)
SERVICE; UNITED STATES)
DEPARTMENT OF COMMERCE; and)
NATIONAL MARINE FISHERIES)
SERVICE,)

Defendants,

1)
 2 and)
 3)
 4 CROPLIFE AMERICA, WASHINGTON)
 5 FRIENDS OF FARMS AND FORESTS,)
 6 WASHINGTON STATE POTATO)
 7 COMMISSION, NATIONAL POTATO)
 8 COUNCIL, WASHINGTON STATE FARM)
 9 BUREAU, IDAHO FARM BUREAU)
 10 FEDERATION OF WHEAT GROWERS,)
 11 WASHINGTON GOLF COURSE)
 12 SUPERINTENDENTS ASSOCIATION, HOP)
 13 GROWERS OF WASHINGTON, AND)
 14 WASHINGTON STATE HORTICULTURAL)
 15 ASSOCIATION,)
 16)
 17 Defendant-Intervenors.)
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I, GLEN H. SPAIN, hereby declare:

1. I am the Northwest Regional Director of the PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOCIATIONS ("PCFFA"), which is a plaintiff in this case. I have served in that capacity with PCFFA since 1992. In that capacity, I direct all PCFFA's program efforts in Oregon, Washington, Alaska, and parts of northern California. I am also the Conservation Program Director of the INSTITUTE FOR FISHERIES RESOURCES ("IFR"), another plaintiff in this case. I am IFR's incorporator and founder, and have been in the position of Conservation Program Director since IFR was first organized in 1992. In that capacity, I direct all of IFR's fisheries conservation programs, in particular its salmon conservation, education and advocacy program, which is one of its primary activities.

2. PCFFA is by far the largest trade organization of commercial fishermen on the west coast. PCFFA is a federation of 15 smaller commercial fishermen's vessel owners' associations, trade associations, port associations, and marketing associations, with member

1 associations in most U.S. ports on the West Coast from San Diego to Alaska. PCFFA also has
2 fishermen members 'at-large' who are unaffiliated with any particular fishermen's association
3 but who have become individual members of PCFFA. Collectively, PCFFA's port and member
4 associations and 'at-large' members represent nearly 2,000 west coast commercial fishing
5 families who are small- and mid-sized commercial fishing boat owners and operators, most of
6 whom derive all or part of their income from the harvesting of Pacific salmon. PCFFA uses
7 lobbying, public education, and litigation to advocate on behalf of both fishermen and the fishery
8 resource itself, to ensure the long-term survival of commercial fishing as a way of life. Much of
9 this work involves efforts to protect and restore salmon and steelhead habitat where it is
10 threatened or degraded.

11 3. Northern California ports in which PCFFA has active member associations
12 include the Ports of Fort Bragg, Shelter Cove, Eureka, and Crescent City, California. Oregon
13 ports in which PCFFA has active member associations include the Ports of Astoria, with many
14 'at-large' members in other Oregon ports. In Washington State, PCFFA's member association
15 Washington Trollers Association ("WTA") operates in every Washington port and is
16 Washington State's largest organization of commercial salmon troll (i.e., hook and line gear)
17 fishermen, with several hundred members. Additionally, PCFFA member associations are based
18 as far south as San Diego. In addition, several of our member groups are themselves coastwide
19 associations with their own membership in many Oregon, Washington, and northern California
20 ports. These include the Small Boat Commercial Salmon Fishermen's Association. We thus
21 have member associations whose operations extend all along the Pacific coast.

22 4. IFR is specifically organized to help prevent water pollution and other adverse
23 environmental impacts that may adversely affect the ecological health of fisheries, and to prevent
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1 further loss of habitat supporting marine fisheries (including preventing further loss of fresh
2 water habitat used by anadromous species). IFR has approximately 850 supporting members,
3 most of them commercial fishermen, whose livelihoods are directly or indirectly affected by
4 salmonid habitat losses throughout the Pacific region, including areas of Washington, Oregon,
5 and northern California where salmon and steelhead can be or could once be found. IFR also
6 conducts public education and advocacy programs for the protection of anadromous fish
7 resources throughout the region.

8 5. Much of IFR's work revolves around efforts to restore and protect salmonid
9 resources within the coastal basins of northern California, Oregon, and Washington. For
10 example, IFR has been encouraging the formation and funding of watershed councils and other
11 cooperative stream restoration efforts within these areas for several years. Displaced and
12 unemployed fishermen also work on those projects, often hired as a result of federal disaster
13 relief funding intended to assist the commercial fishing industry through recent collapses of the
14 salmon fishery in the region. We also work on projects related to salmon conservation in the
15 Klamath Basin, in the Columbia Basin, and in the Puget Sound areas, including efforts to change
16 land and water use policies so that they are more 'fish-friendly.' We also work with the "Oregon
17 Plan for Salmon and Watersheds," the State of Oregon's salmon and steelhead restoration
18 efforts, to monitor its efforts and efficacy. In northern California, Oregon, and Washington we
19 are also working to improve forest practices generally, on both private and public lands, to lessen
20 the impact of such practices on salmonid spawning and rearing habitat. Much of this effort and
21 all the financial resources going into this effort would be wasted if these species are allowed to
22 slide into extinction.

23 6. Commercial salmon harvesting is a valuable business enterprise for PCFFA's
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1 members and for the west coast economy. As recently as 1988, according to independent
2 economic studies based on federal fisheries data, Oregon's commercial salmon harvests alone
3 supported an estimated 4,450 family wage jobs and generated approximately \$89 million in
4 personal income contributions to the Oregon economy. In that same year, commercial fishing
5 generated over \$94 million to the northern California economy and supported 4,000 family wage
6 jobs. Likewise, in Washington State in that year, salmon fishing generated over \$136 million to
7 that state's economy and supported an estimated 6,800 family wage jobs. In addition,
8 commercial fishing generates high quality food for the region's population and for export.

9 7. Throughout the salmon's Pacific region spawning area, a long history of inland
10 salmon spawning and rearing habitat and water quality degradation has seriously depleted
11 populations of salmon and steelhead species, many of which are now listed under the federal
12 Endangered Species Act ("ESA"). The decline of these commercially harvested species has had
13 a direct adverse financial impact on commercial fishermen's ability to make a living.

14 8. Chinook, chum and coho are particularly important to maintaining commercial
15 fisheries, and all three species have been commercially fished in the past. Steelhead are not now
16 commercially fished, but steelhead runs are extremely important to maintaining inland
17 recreational fisheries, have been commercially fished in the past, and commercial fishing has
18 been restricted in various ways to protect them. Now that these salmon and steelhead runs are
19 listed under the ESA, commercial fishing that might target these listed fish has been and must
20 continue to be either severely restricted or totally prohibited.

21 9. Other commercially-fished salmonid stocks throughout the region, including
22 some ESUs of coho and chinook salmon, have not yet been listed under the ESA. However,
23 these salmon resources are also in serious decline, and their population numbers are far short of
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1 historical levels. Many are candidates for ESA listing in the near future. Commercial fishing of
2 these species in many instances has also already been severely restricted or prohibited under both
3 state and federal regulations as a result of their 'weak stock' status. Under modern principles of
4 fisheries management, impacts on the weakest stock are always the limiting factor on all other
5 fisheries, even those that are far more abundant. Since there can be some incidental catch of
6 weak stocks in other, otherwise abundant, fisheries whenever the two intermingle, hundreds of
7 millions of dollars in harvest opportunities have been forgone over the years by commercial
8 harvesters in order to avoid impacts on and protect these 'weak stocks.' Many harvest
9 opportunities on hatchery-origin fish, for instance, simply cannot be pursued because of the
10 potential for incidental catch of either ESA-listed or severely depressed weak stocks.

11 10. The decline of these fish species, both listed and unlisted, has severely harmed
12 PCFFA members by limiting commercial harvest opportunities, by forcing many boat owners
13 out of business, and by adversely affecting the potential for future income for other boat owners.
14 Economic losses to our industry over the past 20 years have been severe. For instance, in
15 California the number of commercial salmon fishing vessel permits issued by the state
16 Department of Fish and Game has shrunk from 7,744 (1980) to 1,800 (1999), a decline of more
17 than 76%. The number of commercial salmon stamp fishing permits issued by the Department
18 underwent a similar decline of 82% in the last 20 years. Comparable declines have also occurred
19 in both Oregon and Washington during that same period. Much of the salmon-dependent
20 economic activity that our members rely on for their livelihood is now either in jeopardy or has
21 already disappeared from the economy as a direct result of the declining quality of freshwater
22 salmon spawning and rearing habitat, including declining water quality.

23 11. The collapse of Pacific salmon and steelhead populations is the product of many
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1 combined factors. The degradation of the species' freshwater habitat through water quality
2 pollution is one of these factors, and a critically important one. Although scientists have long
3 known that residues of pesticides (and other chemicals) are present in streams and lakes, they are
4 only beginning to appreciate the direct and indirect impacts such residues have on salmon and
5 steelhead species. The science indicates that these species are seriously harmed, and their
6 recovery further hampered, by the presence of these residues. Reducing the amount and variety
7 of pesticides in salmon and steelhead will assist in the recovery of these species.

8 12. The failure of defendants NOAA Fisheries and the Fish and Wildlife Service
9 ("FWS") to comply with the Endangered Species Act ("ESA") and National Environmental
10 Policy Act ("NEPA") in delegating its mandatory ESA duties to ensure that federal actions do
11 not take listed species or destroy or adversely modify their habitat economically harms PCFFA
12 and its members. The continued degradation of aquatic habitat results in further declines in fish
13 numbers and a delay in their potential recovery, and thus reduces regional and local fishing
14 opportunities for our members in both the short and long term. This, in turn, means additional
15 commercial fishing jobs will be lost in our fleet, coastal fishing businesses will suffer additional
16 economic losses (with some already facing bankruptcy), and more commercial fishermen who
17 are members of PCFFA affiliated organizations will be unable to earn a living. In addition,
18 PCFFA and its member organizations' salmon marketing efforts will be wasted if there are no
19 harvests to deliver to market. Conversely, it is likely that compliance with the ESA's
20 consultation provisions by NOAA Fisheries and FWS will result in reduced pesticide delivery
21 into fish habitat. These water quality improvements will economically benefit commercial
22 fishing interests by improving salmon habitat and salmon harvests, not only for the listed species
23 or subspecies themselves, but also for other commercially valuable fish that use the same habitat.

13. Similarly, the failure of NOAA Fisheries and FWS to comply with the ESA and NEPA in delegating its mandatory ESA duties to ensure that federal actions do not take listed species or destroy or adversely modify their habitat harms IFR and its members. IFR has a direct interest in improving and maintaining adequate water quality for fish, a goal that is directly undermined by the continuing presence of pesticide residues that harm fish. IFR's many conservation and protection activities are wasted if pesticide residues continue to degrade aquatic habitat and harm the species, delaying recovery and raising risks of extinction.

14. PCFFA member associations and the fishermen they represent therefore have a direct and personal financial interest in the protection and restoration of ESA-listed salmon and steelhead populations, and the restoration of these species' freshwater habitat throughout the region. Restoration of aquatic habitat in the region will also increase populations of unlisted salmonid species, many of which are major and very valuable commercially harvested species.

15. In April 2004, PCFFA and IFR joined together with other conservation-minded organizations by signing onto comment letters authored by Earthjustice and the Washington Toxics Coalition that were submitted to NOAA Fisheries and FWS. These letters opposed the Services' proposed rule, issued in January 2004, which sought to delegate the Services' mandatory ESA duties to EPA for consultation on the effects of pesticides on listed species.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 12 day of May, 2005, at Eugene, Oregon.

GLEN H. SPAIN